

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION.**

CRIMINAL WRIT PETITION NO.2100 OF 2004

Arun Mallappa Ainapura : Petitioner.

versus

M.D.Chikurde & Anr. : Respondents.

Mr.Pramod Kathane i/by K.S.Patil for petitioner.

Smt.V.R.Bhosale, APP, for the State.

CORAM : D.G.DESHPANDE

DATED : MARCH 18, 2006.

P.C.

1. Heard advocate for the petitioner. Petitioner is the original accused. Complaint under Section 138 came to be filed against him. Magistrate ordered issuance of process. That order was challenged before the Revisional Court. The revision came to be dismissed and, hence this petition.

2. The case of the complainant, as revealed from the judgment, is that four persons entered into an agreement with the accused to purchase a plot for specific amount. Each of the purchaser paid part consideration. Later on they found that the accused was not willing to sell the property. Therefore, they asked him to refund the amount with interest. He agreed to do so and gave a cheque of Rs.95,025/-. That cheque was bounced. Hence the aforesaid complaint was filed.

3. The defence of the accused was that he was not liable to pay Rs.95,025/- and, therefore, the process could not have been issued. This contention was negatived by the trial Court and, the Sessions Court rightly held that it was open to the complainant to prove that the consideration of Rs.95,000/- and odd was receivable by four purchasers including complainant. The reasonings given by the Sessions Court are sound and convincing. No interference is called for. Petition is dismissed.

[D.G.DESHPANDE]